

**BOARD OF MEDICAL EXAMINERS/
BOARD OF PHYSICAL THERAPY EXAMINERS
301 S. PARK AVENUE, HELENA, MT
LARGE CONFERENCE ROOM
NOVEMBER 7, 2011
DRY NEEDLING JOINT SUBCOMMITTEE MEETING MINUTES**

CALL TO ORDER:

Ian Marquand, Facilitator, called the meeting to order at 2:05 p.m.

Member Present: Christian Appel, PT; Tanja Brekke, Board of Medical Examiners; Donald Beans, Acupuncturist; Dallas Seaber, Acupuncturist; and Dr. Mary Guggenheim, Board of Medical Examiners
Members by Phone: Robin Peterson-Smith, PT; Sandra Marston, PT; and Reed Humphrey, PT

Member Absent: Kay Bills-Kazimi, Board of Medical Examiners

Staff Present: Executive Director, Ian Marquand; Board Administrator, Linda Grief; Board Counsel, Anne O'Leary; Board Counsel, Gene Allison; Board Counsel, Anjeanette Lindle; Bureau Chief, Maggie Connor; Unit 2 Supervisor, Melissa Billman; and Board of Chiropractors, Dennis Clark

Guests Present: Jane Hamman; Kiely Keane; and Christopher Oliveria

Guests by Phone: Sara Marie; Alex Santos; and Todd Gonzales

Mr. Marquand read the Public Comment Statement:

In accordance with 2-3-103(1), MCA, the Board will hold a public comment period. Please note that Open Forum is the public's opportunity to address the Board on any topic that is not already on the agenda for this meeting. While the Board cannot take action on the issues presented, the Board will listen to comments and may ask the issue be placed on a subsequent agenda for possible action by the Board. The Chairperson of the Board will determine the amount of time allotted for public comment.

A decision on whether to hold a meeting in executive session is in the discretion of the Presiding Chair pursuant to Section 2-3-203 MCA.

Todd Gonzales provided public comment with regard to dry needling, sharps debridement and clarification on information from a Board of Medical Examiners meeting.

Mr. Marquand distributed and read the Board of Medical Examiners (BOME) letter to the Board of Physical Therapy Examiners (BPTE) on dry needling from their October 7, 2011 Board meeting. The BOME purposed a joint subcommittee with BPTE to discuss issues surrounding trigger point dry needling. Both boards endorsed the joint subcommittee as the preferred means to address the issue. This kind of collaborative effort is encouraged by the Department of Labor.

Sara Marie attended the meeting by phone at 2:10 p.m.

INTRODUCTIONS:

Mr. Marquand asked everyone to introduce themselves. The following were those in attendance:

Ian Marquand, Facilitator, Executive Director, Board of Medical Examiners

Anne O'Leary, Board Counsel, Board of Medical Examiners and Board of Physical Therapy

Gene Allison, Board Counsel, Board of Physical Therapy

Christian Appel, PT, Board of Physical Therapy Examiners, Chair for the Dry Needling Committee for the Board of Physical Therapy Examiners

Linda Grief, Board Administrator, Board of Physical Therapy Examiners

Tanja Brekke, Acupuncturist, Board of Medical Examiners, Past President of Montana Association of Acupuncture and Oriental Medicine

Dallas Seaber, Acupuncturist, President of Montana Association of Acupuncture and Oriental Medicine

Donald Beans, Acupuncturist, liaison between the Board of Medical Examiners and the Montana Association of Acupuncture and Oriental Medicine

Dr. Mary Ann Guggenheim, Board of Medical Examiners filling in for Kay Bills-Kazimi, Board of Medical Examiners

Robin Peterson-Smith, PT, Board of Physical Therapy Examiners, Dry Needling Committee member for the Board of Physical Therapy Examiners

Sandra Marston, PT, Dry Needling Committee member for the Board of Physical Therapy Examiners

Reed Humphrey, PT, PhD, Professor and Chair, School of Physical Therapy and Rehabilitation

Science College of Health Professions and Biomedical Sciences the University of Montana

Alex Santos, Professor, School of Physical Therapy and Rehabilitation Science College of Health Professions and Biomedical Sciences the University of Montana

Sara Marie, Acupuncturist, Vice President, Montana Association of Acupuncture and Oriental Medicine

Todd Gonzales, Acupuncturist

Jane Hamman, worked with the Montana Association of Acupuncture and Oriental Medicine

Kiely Keane, Attorney from Crowley Fleck, representing Montana Association of Acupuncture and Oriental Medicine

Christopher Oliveria, Attorney from Crowley Fleck, representing Montana Association of Acupuncture and Oriental Medicine

Melissa Billman, Unit 2 Supervisor

Anjeanette Lindle, Board Counsel, Board of Chiropractors

Dennis Clark, Board Administrator, Board of Chiropractors

Mr. Marquand asked the Joint Subcommittee members the reason they are attending the meeting, what they want the Subcommittee to accomplish and what is their vision for the final result. The following are those responses:

Robin Peterson-Smith – Two way communication and education between the Board of Medical Examiners and the Board of Physical Therapy Examiners' scopes of practice and how they relate to trigger point dry needling. Ability to define trigger point dry needling as being different from acupuncture and physical therapists authorized to perform trigger point dry needling.

Sandra Marston – Mutual communication, understanding and respect of the differences of techniques for trigger point dry needling between acupuncturists and physical therapists. The outcome to be mutual respect as well as physical therapists being authorized to perform trigger point dry needling.

Tanja Brekke – Conflicted, as an acupuncturists, because trigger point dry needling is acupuncture. However, as a board member would like to come up with some sort of solution.

Dallas Seaber – Understand the position that trigger point dry needling is acupuncture.

Christian Appel – Collaborative effort to come to a resolution between the two boards regarding trigger point dry needling. The outcome to be physical therapists being authorized to perform trigger point dry needling.

Dr. Mary Ann Guggenheim – Filling in for Kay Bills-Kazimi. Gain information on history, background and training on trigger point dry needling.

Donald Beans – The Montana Association of Acupuncture and Oriental Medicine would like to see physical therapist stop practicing trigger point dry needling until the issue is resolved.

Reed Humphrey – Be an advisory group to assist in a resolution between the two boards regarding trigger point dry needling and be responsive to physical therapist.

PUBLIC MEETING: Orientation and Training

Open Meetings, Public Record and Public Participation Laws -

Mr. Marquand read from the Constitution of Montana, Article II, Section 8, Right of Participation.

Mr. Marquand explained MCA 2-3-203 the Open Meetings Law. All meetings of government bodies shall be open.

Mr. Marquand mentioned the Public Records Law. Everyone has access to any materials from the Joint Subcommittee meetings.

Maggie Connor, Bureau Chief, attended the meeting at 2:30 p.m.

Mr. Marquand asked the Joint Subcommittee if they wanted a chairperson. The members discussed the process.

By Consensus the Joint Subcommittee voted to keep Ian Marquand as the facilitator.

COMMITTEE PROCEEDURE and ORGANIZATION: Discussion

Mr. Beans commented that The Montana Association of Acupuncture and Oriental Medicine (MAAOM) would like to see physical therapist stop practicing trigger point dry needling until the issue is resolved. Mr. Marquand responded that no one member can speak for a board. Ms. O'Leary reported that the last action the BOME took in March, 2011, was that physical therapists were allowed to perform trigger point dry needling.

Mr. Marquand asked the Joint Subcommittee for dates for future meetings, meeting type and subjects for those meetings. The Joint Subcommittee agreed upon the following:

Tuesday, Nov. 29 at 5:30 p.m. (Phone conference)

Tuesday, Dec. 13 at 5:30 p.m. (Phone conference)

Wednesday, Jan. 4 at 9:00 a.m. (In-person meeting in Helena)

Mr. Marquand asked the Joint Subcommittee about leadership of the Joint Subcommittee meeting. He explained that the staff of the Board of Medical Examiners and the Board of Physical Therapy Examiners asked him to be the moderator of this meeting. The members discussed the process. The members asked Mr. Marquand if he could be unbiased even though he works for the Board of Medical Examiners. He replied that he could be unbiased and would work within the code of ethics he has followed as a journalist that has four primary principles: seek true, minimize harm, act independently and be accountable.

By Consensus the Joint Subcommittee voted to keep Ian Marquand as the facilitator.

Maggie Connor and Anjeanette Lindle left the meeting at 3:00 p.m.

Ms. O'Leary suggested that each committee from each board select a "Captain". The Captains will be responsible for reporting the Joint Subcommittee activities to their respective boards, relaying information from those boards to the Joint Subcommittee and be the contact person for staff.

By Consensus Tanja Brekke will represent the Board of Medical Examiners and Christian Appel will represent the Board of Physical Therapy Examiners.

Melissa Billman left the meeting at 3:15 p.m.

Dennis Clark, Kiely Keane and Christopher Oliveria left the meeting at 3:25 p.m.

The Joint Subcommittee recessed at 3:25 p.m.

The Joint Subcommittee resumed at 3:35 p.m.

Mr. Marquand asked the Joint Subcommittee how they wanted to make decisions. The members discussed the makeup of the Subcommittee. Currently there are four physical therapists from the Board of Physical Therapy Examiners, and three acupuncturists and one physician assistant from the Board of Medical Examiners to equal eight members. The members discussed consensus, majority vote or a "dead lock" with no decision. Ms. O'Leary informed the committee that once a board tasks a subcommittee to do work on behalf of the board, the board expects that subcommittee to make recommendations. A quorum of the subcommittee has to be present to meet, so five out of the eight members. Ms. O'Leary read MCA 37-1-131(2) which states that a board or subcommittee to conduct business must have a majority of the members in attendance to constitute a quorum. A majority of the Subcommittee's voting members (4 or more) should not meet outside of the scheduled meeting times and locations. This would be a violation of Montana's Open Meetings Law.

By Consensus the Joint Subcommittee agreed upon:

Voting members for the Board of Physical Therapy Examiners – Christian Appel, Robin Peterson-Smith and Sandra Marston

Voting members for the Board of Medical Examiners – Tanja Brekke, Dallas Seaber and Donald Beans

Kay Bills-Kazimi and Reed Humphrey will be non-voting members of the subcommittee with full participation privileges.

Four out of six of those voting members are needed for a majority for any issue to move forward.

Melissa Billman and Anjeanette Lindle attended the meeting at 3:50 p.m.

DRY NEEDLING: Discussion

Joint Subcommittee Mission -

The members discussed the mission statement for the Joint Subcommittee.

By Consensus the Joint Subcommittee agreed upon:

“To seek resolution regarding the therapeutic use of solid needles in licensed practice of acupuncture and physical therapy in the State of Montana.”

This mission statement is open for further discussion at a later meeting.

Identify Subjects to be Addressed –

The Joint Subcommittee discussed subjects to be addressed for future meeting. The subjects identified are the following:

Statutes – Board of Medical Examiners and the Board of Physical Therapy Examiners

Administrative Rules - Board of Medical Examiners and the Board of Physical Therapy Examiners

1999 Attorney General’s Opinion on physician use of solid needles

Public safety standards

Identify Resources Needed -

The Joint Subcommittee discussed how to share information among the members.

By Consensus the Joint Subcommittee agreed upon submitting any information to Ms. Grief or Mr. Marquand to be forwarded to the members. Members should not send information to each other.

Ms. O’Leary clarified that either Association could share information with their members who may be on the Dry Needling Joint Subcommittee as long as it is clear the information is from the Association. The Joint Subcommittee members’ responsibility is to represent their respective boards not an association. In addition, the recommendations from the Joint Subcommittee need to be brought back to the boards and then the boards take action for those recommendations to be put in place. The Subcommittee is advisory only to the respective boards.

The Joint Subcommittee discussed the Associations’ opinions/interpretations of the statutes and rules being discussed at the first meeting.

By Consensus the Joint Subcommittee agreed that the legal interpretation of statutes and rules by the staff attorneys will be brought forth at this meeting. The Associations’ opinions/interpretations could be scheduled for a future meeting at the Subcommittee’s discretion.

NEXT COMMITTEE MEETING: The Joint Subcommittee members clarified the dates, times and subjects for the next three joint subcommittee meetings. The information is as follows:

Tuesday, Nov. 29 at 5:30 p.m. (Phone conference)

Subjects to be discussed: Montana statutes, administrative rules, 1999 Attorney General Opinion on physician use of solid needles.

Tuesday, Dec. 13 at 5:30 p.m. (Phone conference)

Subjects to be discussed: Public safety standards. Additional discussion items could be added from the Nov. 29 meeting.

Wednesday, Jan. 4 at 9 a.m. (In-person meeting in Helena)

Subjects to be discussed: To be determined. This meeting could include Subcommittee recommendations for Boards.

ADJOURNMENT: There being no further business to come before the Committee, MOTION was made by Donald Beans and seconded by Tanja Brekke to adjourn and the motion carried. The meeting adjourned at 5:00 p.m.

SUBMITTED BY: Linda Grief

APPROVED BY:

DATE APPROVED: